

Legal Protection for Heirs who Have Not Received Their Rights in Inheritance Distribution

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ABSTRACT

Inheritance is an important aspect of civil law that aims to provide legal certainty and justice in the transfer of property to heirs. However, the practice of inheritance distribution in Indonesia often leads to conflicts due to the denial of rights, document manipulation, or unilateral control by certain heirs. This study examines legal protection for heirs who do not receive their rights by analyzing the position of heirs in Indonesia's pluralistic inheritance law system (customary, Islamic, and Civil Code), available legal protection mechanisms, and the strategic role of notaries in preventing and resolving disputes. The research method uses a normative legal approach with the analysis of primary legal materials such as the Civil Code, KHI, and UUJN, as well as secondary materials in the form of literature and court decisions. The findings indicate that aggrieved heirs have a strong legal basis to claim their rights through civil and criminal proceedings, including lawsuits to invalidate the Certificate of Inheritance, requests for redistribution, and reports of alleged document forgery. Notaries play a central role in ensuring the validity of documents, the involvement of all heirs, and the prevention of manipulative actions that harm other parties. Additionally, the low legal literacy of the public regarding inheritance rights contributes to disputes that damage family relationships. Therefore, preventive measures through legal education and transparent inheritance distribution with notary assistance are necessary. The strict enforcement of the law and the active involvement of notaries are key to achieving justice and harmony in inheritance distribution.

Keywords: *legal protection; heirs; inheritance distribution; inheritance disputes; role of notaries.*

INTRODUCTION

Inheritance is one of the most fundamental aspects of civil law, particularly in relation to family life and the management of an individual's assets after their death (Achmad & Wahyuni, 2022). Within the framework of inheritance law, the deceased's estate or the assets left behind by the deceased become legal objects that must be distributed fairly among the legal heirs according to the law (Harahap, 2018). The primary purpose of inheritance distribution is to provide legal certainty and fairness in the transfer of ownership rights from the deceased to the heirs, while also preserving family relationships to prevent them from being damaged by property disputes (Ali, 2012; Mertokusumo, 2012).

Ideally, the distribution of inheritance should be carried out in accordance with applicable legal provisions, whether under the *Civil Code (KUHPerdata)*, the *Compilation of Islamic Law (KHI)*, or customary law, depending on the legal system adopted by the relevant family (Ayuningtyas & Hidayati, 2023). Additionally, the principles of consultation and consensus among heirs are also important foundations for achieving a peaceful, transparent, and fair inheritance distribution (Lestari & Kurniawan, 2020). Each heir has equal legal standing according to their degree and share, and there should be no discrimination or denial of rights (Asshiddiqie, 2017; Hamzah, 2018).

However, in practice, various problems and conflicts often arise in the process of inheritance distribution (Nasution, 2018). These conflicts can arise due to misunderstandings, disputes over assets, competition between siblings, or even the deliberate actions of certain parties to ignore the rights of other heirs (Ahmad, 2018; Maarif, 2016). This situation is often exacerbated by the ignorance of some heirs regarding their rights, as well as the lack of legal literacy in society (Alim, 2021; Sari & Nugroho, 2022). In some cases, these arbitrary actions are carried out systematically, even using forged documents or concealed information (Gunawan, 2019). Therefore, legal intervention and mediation from a neutral third party, such as a notary or mediator, are crucial to ensuring a fair and legally valid distribution of inheritance (Nurhayati, 2019; Mertokusumo, 2010). It is not uncommon to find cases where one or more heirs are deprived of their rights, excluded from the process, or even unilaterally removed from the list of beneficiaries (Maarif, 2016; Ahmad, 2018). Such actions clearly contradict the principles of justice and legality and can lead to prolonged horizontal conflicts within the family (Nurhayati, 2020).

Furthermore, the absence of valid inheritance documents, such as a *Certificate of Inheritance (SKW)* or a deed of inheritance drawn up by a notary, is also one of the main causes of disputes. In some cases, inherited assets have been taken over by certain heirs without a strong legal basis, or based on manipulative documents (Nasution, 2018). Therefore, a thorough understanding of the rights of heirs and the legal protections available in the event of a violation of those rights is necessary (Nurhayati, 2020; Asshiddiqie, 2017).

This paper will discuss in depth how legal protection can be provided to heirs who feel that their rights have not been fulfilled in the distribution of inheritance (Manik, 2023). The discussion will include an analysis of the applicable positive legal provisions, legal steps that can be taken by aggrieved heirs, and the strategic role of notaries as public officials who have authority in the preparation of documents related to inheritance (Firmansyah and Rahayu, 2018). Additionally, this paper will highlight the importance of preventive and mediative approaches in resolving inheritance conflicts, in order to uphold family values and the principle of social justice (Gunawan, 2019; Harahap, 2018).

Previous research has explored various dimensions of inheritance law, yet gaps remain in addressing the practical challenges faced by heirs. For instance, Ahmad (2018) examined Islamic inheritance law in Indonesia, focusing on its theoretical foundations but paid limited attention to the enforcement mechanisms for heirs whose rights are violated. Similarly, Gunawan (2019) highlighted the role of notaries in reducing inheritance conflicts but did not comprehensively analyze the legal remedies available to aggrieved heirs. This study aims to bridge these gaps by critically analyzing the legal protections for heirs under Indonesia's pluralistic legal system and the strategic role of notaries in ensuring justice. By integrating theoretical insights with practical legal measures, this research seeks to enhance legal literacy and provide actionable solutions for heirs deprived of their rights. The findings will contribute to both academic discourse and practical applications, offering a clearer pathway for heirs to claim their inheritance rights while promoting family harmony through transparent and lawful distribution processes.

METHOD

This study uses a normative legal approach (*doctrinal legal research*), which is legal research focused on a literature review of applicable positive legal norms related to the protection of heirs' rights. The primary data sources are legal primary materials, including the *Civil Code (KUHPerdata)*, the *Compilation of Islamic Law (KHI)*, *Law No. 30 of 2004 on the Notary Public Office*, and court decisions related to inheritance disputes. Additionally, secondary legal materials, such as literature, journals, and opinions of inheritance law experts, as well as tertiary legal materials like legal dictionaries and encyclopedias, were utilized to clarify key concepts.

The approaches used include the *statute approach* to analyze regulations governing inheritance rights, the *case approach* to examine jurisprudence on inheritance disputes, and the *conceptual approach* to understand the principles of justice and legal certainty. The analysis is conducted qualitatively by identifying, interpreting, and systematizing legal provisions, then linking them to inheritance distribution practices in society.

The purpose of this method is to provide appropriate legal arguments regarding the protection of heirs' rights, the legal steps that can be taken, and the strategic role of notaries in preventing and resolving inheritance disputes.

RESULTS AND DISCUSSION

The Position of Heirs According to Inheritance Law in Indonesia

Within the national legal system, inheritance matters play a strategic role in maintaining the continuity of family property ownership and protecting the civil rights of every individual. Indonesia itself adopts a pluralistic legal system that allows for three parallel inheritance systems to coexist: Customary Inheritance Law, Islamic Inheritance Law, and Civil Inheritance Law (KUHPerdata).

These three systems apply based on the religious, cultural, and legal preferences of the parties involved. Therefore, regulations regarding heirs and the distribution of inherited assets may vary depending on the legal system applied in a particular case.

a. Customary Inheritance Law

Customary inheritance law applies to indigenous communities that still maintain local traditions in the management of inherited property. A distinctive feature of this system is its unwritten (non-codified) nature and its strong influence by kinship values and kinship systems, whether patrilineal, matrilineal, or bilateral. For example, in Batak society (patrilineal), inheritance is only given to male children, while in Minangkabau society (matrilineal), inheritance is passed down through the maternal line.

b. Islamic Inheritance Law

Islamic inheritance law is regulated in the *Compilation of Islamic Law (KHI)* and the science of *Faraidh*, which are derived from the *Qur'an*, *Hadith*, *Ijma'*, and *Qiyas*. This system applies to Muslims and has clear and detailed provisions regarding who is entitled to inherit and the proportion of their share. Islamic law stipulates that the distribution of inheritance is mandatory, meaning it must be followed in accordance with the provisions of Sharia law.

For example, a male child receives twice the share of a female child, and parents, spouses, and siblings have clearly defined positions. Any attempt to deprive an heir of

their rights under this system may be categorized as a violation of sharia law and also a violation of state law.

c. Civil Inheritance Law (KUHPerdata)

The inheritance system in the Civil Code (KUHPerdata) is codified and based on European (Dutch) inheritance law, and is used by non-Muslim communities. In this system, there are two forms of inheritance, namely:

1. Ab intestato (without a will)
2. Testamentary (with a will)

In cases of intestate succession, heirs are classified into four main groups known as intestate succession classes, namely:

1. Direct descendants: children, grandchildren, and so on (both legitimate and illegitimate who have been legally recognized).
2. Parents and siblings: if the deceased has no children.
3. Family members in the direct line above parents: such as grandparents.
4. Family members in the collateral line or other parties who receive inheritance based on a will or in the absence of heirs in the previous category.

If, in practice, one of the heirs from the above group is not listed or their rights are deliberately bypassed in the distribution of inheritance, whether due to negligence, malicious intent on the part of another party, or document manipulation, then they still have the legal right to claim their share of the inheritance. Unilateral revocation or reduction of inheritance rights without legal basis is an unlawful act and can be challenged in court.

For example, if a biological child of the deceased is not mentioned in the Letter of Heirship (SKW), even though he or she is legally entitled to inherit, then he or she has the right to file a lawsuit to revoke or revise the SKW and demand a fair redistribution of the inheritance. In many cases, aggrieved heirs may also ask the court to temporarily seize the inheritance during the legal proceedings.

The position of heirs in the Indonesian legal system is fundamental and guaranteed by positive law, whether in the context of customary law, Islamic law, or Western civil law. Every legitimate heir has rights that cannot be violated. Therefore, understanding the applicable inheritance law system is crucial for the general public, legal practitioners, and public officials such as notaries, to ensure that the distribution of inheritance is fair, lawful, and does not lead to prolonged conflicts.

Legal Protection for Heirs Whose Rights Are Not Granted

In inheritance practices in Indonesia, the ideal legal provisions governing the distribution of inheritance often do not work as they should. Many cases demonstrate that conflicts among heirs frequently arise due to unfair, manipulative, or even unilateral distribution without involving all entitled parties. This clearly contradicts the principles of justice, legal certainty, and the protection of civil rights as guaranteed by national inheritance law. Injustice in inheritance distribution can manifest in various forms, including:

a) The exclusion of heirs from the distribution process

In some cases, some heirs are not included in family meetings or inheritance administration processes, either intentionally or due to a lack of information. This action results in the loss of their rights to the inheritance that should be distributed proportionally. In a legal context, the exclusion of one of the heirs from the inheritance

distribution process constitutes a violation of the principles of justice and equality of rights in inheritance law. Every heir has the same legal standing to know, approve, and participate in the distribution of inherited assets. If this right is ignored, the distribution that has been carried out may be considered legally flawed and potentially invalidated by the court.

In addition, it is not uncommon for heirs to be excluded due to administrative loopholes, such as a lack of coordination between family members, or even the deliberate withholding of information by one party for their own interests. Such practices can cause deep emotional wounds and not only trigger legal conflicts but also damage previously harmonious family relationships. Therefore, transparency and open communication are key in every inheritance distribution process.

To prevent similar incidents, it is crucial for families to involve a professional and neutral third party, such as a notary, in the planning and execution of the estate distribution process. The presence of a notary not only ensures the legality of the documents created but also ensures that all entitled parties have been identified, invited, and given the opportunity to express their consent voluntarily. This strengthens the legal standing of each heir while minimizing the potential for disputes in the future.

b) Manipulation of their data

It is also not uncommon for the names of heirs to be forged or removed from official documents such as the Certificate of Inheritance (SKW) or the Deed of Inheritance. Such manipulation can be carried out by one of the heirs with the intention of gaining control over a significant portion or the entirety of the deceased's estate. The act of removing names or forging documents in the context of inheritance constitutes a serious legal violation and may be subject to criminal penalties, such as Article 263 of the Criminal Code (KUHP) regarding forgery of documents. The consequences of forgery not only harm the party whose rights have been deprived but may also render inheritance-related administrative processes, such as land title transfers, bank account disbursements, or asset management, legally invalid if proven to be based on forged documents.

In addition to criminal aspects, aggrieved heirs may pursue civil legal action by filing a lawsuit to revoke the Certificate of Inheritance (SKW) or inheritance deed in court. In this lawsuit, the plaintiff must prove that they are the rightful heir based on authentic evidence such as a birth certificate, family card, and the deceased's death certificate. If the judge finds that there was intentional omission of a name, the distribution of the inheritance may be ordered to be repeated in accordance with the correct composition of the heirs.

It is important for all parties within a family to understand that manipulative actions in the distribution of inheritance are not only illegal but also undermine the ethical values of family relationships. Therefore, the role of public officials such as notaries and family lawyers is crucial to ensure that the inheritance process is conducted transparently, accountably, and in accordance with applicable laws. Legal education about the risks and consequences of inheritance manipulation needs to be expanded so that the public is not easily tempted to take shortcuts that could lead to lengthy legal battles.

c) The existence of suspicious unilateral gift deeds or wills

In some inheritance disputes, the emergence of a deed of gift or will signed shortly before the death of the testator often raises suspicion, especially if it was not made before a notary or without the presence of independent witnesses. The validity of such documents often becomes a crucial point of dispute. Moreover, if the document was not executed before a competent notary or without the presence of independent witnesses who can provide objective testimony regarding the document's creation process, this creates an opportunity for certain parties to question the document's legal and ethical validity.

The validity of a will or deed of gift depends heavily on the fulfillment of formal and material requirements as stipulated in the Civil Code (KUH-Perdata) and other implementing regulations. A valid will must be made in writing, signed by the testator in a state of sound mind, and witnessed by two disinterested witnesses who have no interest in the contents of the will. If these elements are not met, the document may be challenged in court. Furthermore, if it is proven that the will was made under duress, influence, or in a state of unconsciousness, the will may be invalidated by law.

The consequences of invalid documents can be very detrimental to heirs who are rightfully entitled to an inheritance, as it can result in the transfer of inherited assets to other parties illegally. Disputes over the validity of wills or gifts often cause emotional tension within families and can even lead to a breakdown in family relationships. Therefore, the role of a notary becomes crucial to ensure that gift deeds or wills are drafted in accordance with legal procedures and in an environment free from undue pressure. In addition to providing legal protection, a notary can also act as an objective mediator to ensure that the testator's wishes are carried out fairly without infringing upon the rights of other heirs.

d) Unilateral control by one of the heirs

Often, inherited property is immediately taken control of by one of the heirs without any official division or valid legal documents. This increases the potential for conflict as other heirs may feel disadvantaged. Unilateral control of inherited property without a clear legal basis may be categorized as an unlawful act.

In civil law, anyone who controls joint property without the consent or valid division of the other owners, including other heirs, has violated the principle of joint ownership. Even if the perpetrator feels that he or she has a right to the inheritance, that right cannot be used to justify unilateral actions that harm other parties who also have the same rights.

In addition to causing material losses, unilateral control can also lead to emotional tension within the family. Relationships between siblings can be damaged simply because one party acts arbitrarily towards assets that should be divided fairly. In many cases, such conflicts escalate into lengthy, exhausting, and costly legal disputes, both financially and psychologically. Therefore, it is crucial for all heirs to remain open-minded and prioritize consultation at every stage of the inheritance distribution process.

To prevent unilateral control, all parties should immediately divide the inheritance officially through the applicable legal mechanisms, such as drawing up a deed of inheritance distribution (APHB) before a notary. This process involves recording all assets left behind, identifying the legal heirs, and drafting a legally binding agreement. With this official document, each heir

obtains legal certainty regarding their share of the inheritance, and there is no room for any party to make unilateral claims outside the mutual agreement.

Legal Protection Measures

For heirs who feel that their rights have not been fairly distributed, there are several legal protection mechanisms that can be pursued. These steps include:

a. Filing a Civil Lawsuit in Court

Heirs may file a lawsuit with the District Court (for cases subject to the Civil Code or customary law) or with the Religious Court (for cases subject to Islamic inheritance law). The purpose of this lawsuit is to claim the portion of the inheritance that has not been granted, as well as to seek the annulment of documents deemed detrimental.

b. Canceling a Defective Certificate of Inheritance (SKW)

If there are discrepancies in the SKW—for example, it does not list all heirs, or it is based on inaccurate data—the aggrieved heirs may file a petition for annulment with the court. A legally flawed SKW has no probative value in land administration or banking processes.

c. Requesting a Re-division of Inheritance

If the distribution process is carried out without the consent of all heirs, or if new facts are discovered that indicate a violation of rights, the heirs may file a request for redistribution. This is important to ensure that each heir receives their fair share in accordance with the law.

d. Reporting Suspected Document Forgery

If there are indications of forged signatures, document manipulation, or fraud in the inheritance process, criminal legal action may also be taken by reporting the matter to the police.

The Role of a Notary in the Distribution of Inheritance

The distribution of inheritance is a legal process that not only concerns material issues but is also closely related to family relationships, emotions, and justice. In this context, the role of a notary as a public official authorized to draw up authentic deeds is crucial in ensuring the validity and continuity of a fair and orderly inheritance distribution process.

As officials working under the Notary Public Law (UUJN), notaries have legal authority to draft official documents, verify legality, and provide legal advice to parties involved in the inheritance process. The important role of notaries in the context of inheritance distribution includes the following aspects:

a. Preparing a Certificate of Inheritance (SKW) or Deed of Inheritance

One of the main functions of a notary in inheritance matters is to prepare a Certificate of Inheritance (SKW) for non-Muslim citizens or a deed of inheritance for the process of proving the validity of the status of heirs. This document serves as the primary basis for the transfer of inheritance assets such as land certificates, bank accounts, motor vehicles, and others. Without this document, the inheritance administration process is not legally valid.

The preparation of the SKW or inheritance deed must be done meticulously, listing all legal heirs based on valid administrative and legal evidence, such as birth certificates, marriage certificates, family cards, and the death certificate of the deceased.

b. Ensuring the Involvement of All Legal Heirs

In their capacity, notaries are required to ensure that all legally entitled heirs have been invited and involved in the inheritance distribution process. This is important to prevent any party from feeling overlooked or excluded. This procedure also serves to prevent potential disputes in the future, especially if it is found that any heirs have been intentionally omitted.

With the involvement of all heirs, the distribution can be carried out transparently, openly, and based on mutual agreement, as stipulated in the applicable laws and regulations.

c. Providing Objective and Neutral Legal Explanations

Notaries not only act as recorders of agreements or deeds, but also as neutral providers of legal explanations to heirs. In this case, notaries help explain:

- 1. The applicable inheritance law system (customary, Islamic, or civil)**
- 2. The legal consequences of the distribution of certain assets**
- 3. Mechanisms for the creation and signing of the inheritance distribution deed (APHB)**

The purpose is to ensure that the distribution is carried out based on legal awareness, not coercion or ignorance, and to prevent acts that can be categorized as unlawful acts (Ayuningtyas & Hidayati, 2023; Sari & Nugroho, 2022).

d. Preventing Manipulative Actions and the Removal of Rights

One of the preventive functions of a notary is to conduct a thorough verification of documents, identities, and the legal status of heirs to prevent data manipulation or the removal of certain parties' rights (Firmansyah & Rahayu, 2018; Alim, 2021). Notaries are required to refuse to draft deeds if there is suspicion that the documents submitted are false, incomplete, or do not reflect the actual legal conditions.

Thus, the presence of a notary serves as a guarantee of legality and integrity in the inheritance process, thereby minimizing the potential for fraud and disputes from the outset.

The Importance of Legal Literacy Among the Public Regarding Inheritance

The level of legal literacy among the public regarding rights and obligations in inheritance is still very low. Many families avoid discussing inheritance because it is considered taboo, so that when the heir dies, horizontal conflicts arise that can damage family relationships and even lead to lawsuits in court.

Therefore, it is important to conduct regular legal education through seminars, counseling, and legal assistance that can reach a wide range of communities. This education includes the rights of heirs according to the legal system adopted, the legal procedures for inheritance distribution, the importance of authentic documents such as SKW, APHB, and wills, and the role of notaries in facilitating fair and legal distribution.

In Indonesia's pluralistic and complex inheritance legal system, the existence of notaries as neutral and professional officials has strategic value in creating legal justice and maintaining family harmony. Through the creation of valid inheritance documents and the active involvement of all heirs, the potential for disputes can be minimized, and the principle of justice can be realized in practice. The role of notaries is not limited to administrative aspects but also

extends to that of legal educators for the community, contributing to the creation of a law-abiding, fair, and civilized society.

CONCLUSION

This research reveals that heirs who do not receive their rights in the distribution of inheritance have a strong legal basis to fight for justice through the pluralistic Indonesian legal system. Legal protection can be accessed through both litigation and non-litigation channels, with the strategic role of the notary as a guarantor of document validity and as a mediator in dispute resolution. The findings of the study show that low legal literacy in the community and weak supervision of the inheritance distribution process are the main root problems that trigger horizontal conflicts. Therefore, three concrete steps are suggested: (1) The government needs to intensify the socialization of *inheritance law* through collaboration with universities and community organizations; (2) Establish a stricter *notary supervision system* to prevent document manipulation; and (3) Develop a family-based inheritance dispute resolution model through customary institutions or religious councils. The implementation of these recommendations is expected to create a more transparent, fair, and stable inheritance distribution mechanism that is able to maintain the integrity of family relationships, while strengthening the community's legal awareness in accordance with the principles of social justice. Follow-up research can develop a *legal economic analysis* related to the impact of inheritance disputes on family welfare.

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